




PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Christopher F. Freudenberg et al.	Examiner: Purol, David M.
Serial No.: 10/722,041	Group Art Unit: 3634
Filed: November 24, 2003	Docket No. BPL0002/US
For: PLASTIC SHEET BARRIER ENCLOSURE, SYSTEM, AND METHOD	

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir or Madam:

This communication is being filed with a Notice of Appeal.

It is believed that no other fee is required in filing this submission. However, if
any fee is required, please charge the appropriate fee to the Kagan Binder Deposit
Account No. 50-1775 and notify us of the same.

Enclosed with this Pre-Appeal Brief is a video in DVD format that is provided as a
matter of showing the construction of an enclosure for abatement purposes in accordance
with the steps of the presently claimed invention. This video is provided as supplemental to
the full arguments provided below for consideration of the inventive features of the present
invention.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Each of independent claims 1, 21, and 34 have been rejected under 35 U.S.C. 103 (a) as being obvious by the combination of the reference to Iwen et al and Eller et al. It is submitted that each of the presently pending independent claims 1, 21 and 34 are patentably distinct from any attempted combination of the Iwen et al and Eller et al references.

A key aspect of distinction of the present invention relates to the design of an abatement enclosure system that purposely creates such an enclosure that covers non-working surfaces from many strips of film arranged alongside one another and in a sealed overlapping arrangement. For abatement purposes, such a design is directly contrary to the attempts of others as described in the prior art references of record and as relied upon by the Examiner.

First, it is submitted that clear error exists in the application of the primary reference to Iwen et al in that the suggested modification by the Examiner is directly contrary to the explicit teachings of the Iwen et al reference and would be a destruction of the clear intended purpose of the system of Iwen et al.

Next, it is submitted that the secondary reference to Eller et al does not disclose subject matter as relied upon by the Examiner and thus could not come up with the subject invention as presently claimed in each of independent claims 1, 21 and 34.

The Iwen et al reference provides a system for covering surfaces that utilizes a single sheet specifically folded and applied to get two-layer coverage from a single sheet to eliminate seams and thus possible leakage points. The Eller et al reference is an entirely different approach that provides a temporary wall to partition an area of a room, which temporary wall is a ventilation control structure including flaps arranged from plural sheets to permit limited air flow into the partitioned area as such is subject to negative pressure. The present invention takes a contrary approach to either of these by utilizing plural sheets arranged to cover non-working surfaces where seams are purposefully created and appropriately sealed according to inventive aspects of the present invention.

Iwen et al disclose a specific manner and system that utilizes a single sheet of material to eliminate as many seams as possible as the fundamental important point of its system design. Elimination of seams or potential escape openings is critical to their approach to control an environment where abatement is to be conducted. The Examiner, to the contrary, suggests that one of ordinary skill in the art would look at the system of Iwen et al and instead create seams by starting with plural sheets of material and seaming them together as a substitute for the single folded sheet approach of Iwen et al. That is, the Examiner's position is a complete destruction of the approach of Iwen et al.

Secondly, a combination of teachings of Eller et al to the system of Iwen et al would be that instead of covering all non-working surfaces of a room, the room would include a partitioning wall provided with ventilation flaps that permit air flow through them. Again, this type of modification would be directly contrary to Iwen et al's purpose to eliminate leakage to or from its controlled environment. Importantly also, even if Eller et al could somehow suggest to take Iwen et al's folded sheet, cut it into multiple pieces, and apply the pieces to non-working surfaces, Eller et al would then teach that any creation of overlapping seams would be provided without sealing them together so that they act as flaps to permit air flow as part of a ventilation procedure. The presently claimed invention includes the purposeful creation of seams and of sealing them to one another by the use of specifically designed sheets as an abatement enclosure. The combination of references as asserted by the Examiner cannot come up with the method steps and system as presently claimed.

To further distinguish from the prior art of record, independent claim 1 recites that the holding system of the barrier sheets comprises an adhesive layer that substantially covers a major surface of the first and second barrier sheet lengths. It is submitted that this limitation further distinguishes from the Iwen et al and Eller et al references as taken in combination or alone from one another. Within this adhesive layer, intermediate and edge adhesive zones are included, and an overlapping portion of the first and second barrier sheet lengths are adhesively sealed. Neither reference discloses or suggests the provision of an adhesive layer that substantially covers a major surface of any barrier sheet. In fact, each reference teaches to the contrary.

The Iwen et al reference discloses at column 4, lines 6-14, that “it is contemplated that the sheet may have additional adhesive areas” and notes that “additional adhesive strips” could be exposed by a user. Iwen et al only contemplates distinct strips or areas of adhesive that can be provided in select locations to facilitate hanging of the folded sheet material as a single sheet providing the multiple layers. Given the cumbersome nature of the large sheet as it is folded in a particular manner with a specific procedure to permit application to wall surfaces, select adhesive provision is required to stepwise apply the sheet material without having the sheet adhering to itself or other structures inadvertently. Iwen et al clearly teaches away from the provision of an adhesive layer substantially covering a major sheet surface. Eller et al, as discussed above, discloses that the overlapping flaps permit air flow, and as such cannot be provided with adhesive.

Dependent claim 2 is amended to recite that the adhesive comprises a pressure sensitive adhesive that is an acrylic adhesive. Although acrylic adhesives are not themselves new, it is an important aspect of the present invention that where an adhesive is substantially covering a sheet’s major surface, as presently claimed, the acrylic adhesive provides desired adhesion properties. Allowance of dependent claim 2 is thus believed proper and requested.

Furthermore, dependent claim 18 recites the application of a negative pressure of 0.02 inches of water within the enclosed space and maintaining billowing, as a result of the adhesive holding system, to less than 2 inches. The amount of billowing is directly related to the use of an adhesive holding system, the provision of such adhesive to substantially cover a major surface of each sheet, the specific adhesive material and the manner of creating the enclosure, as are presently claimed. It is submitted that the systems of either Iwen et al or Eller et al, or any combination thereof, would not be capable of this limitation.

Independent claim 21 is believed allowable over the prior art of record for all of the reasons set out above. A method is recited including the securing of first and second barrier sheets in an overlapping manner to create sealed seams, and also includes the limitations added to claim 1, claim 2 and claim 18, as discussed above.

Independent claim 34 sets out an enclosure including the aspects noted with respect to claim 1 including the provision of overlapping seams from barrier sheet with

the seams sealed by adhesive, which adhesive is recited as comprising an acrylic pressure sensitive adhesive that substantially covers a major surface of each claimed sheet.

Applicants have discovered a way to purposefully create seams in an enclosure environment so that the barrier sheets are manageable for hanging and yet effectively provide a controlled environment. With the use of the claimed holding system, these barrier sheets can be easily hung and the controlled environment can be effectively created contrary to the express teachings of a barrier system as disclosed by the prior art.

It is respectfully submitted that the above references as a matter of law cannot form the basis for a rejection of the invention as claimed, because the revisions required to each of the disclosed systems to provide a method that corresponds to the present claims would destroy the functionality of each of the references.


The above references therefore cannot alone or in combination form the basis of an assertion that the present claims are obvious.

CONCLUSION

It is respectfully submitted that the basis of the outstanding rejection on the record requires revision of the references in a manner that destroys their functionality. Because this basis of rejection is clearly in error, a favorable decision by the Conference Panel is appropriate in this case and is hereby requested. In the event that a phone conference between any member of the Conference Panel and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9805.

Dated: December 17, 2007

Respectfully submitted,

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